

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF JUDITH) APPEAL NO. 07-A-2622
LEISTER from the decision of the Board of) FINAL DECISION
Equalization of Valley County for tax year 2007.) AND ORDER
)

RESIDENTIAL PROPERTY APPEAL

THIS MATTER came on for hearing February 28, 2008, in Cascade, Idaho before Hearing Officer Travis VanLith. Board Members Lyle R. Cobbs, David E. Kinghorn and Linda S. Pike participated in this decision. Appellant Judith Leister and witness Tom Saldin appeared at hearing. Assessor Karen Campbell and Chief Deputy Assessor Deedee Gossi appeared for Respondent Valley County. This appeal is taken from a decision of the Valley County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of property described as Parcel No. RP00196001004AA.

The issue on appeal is the market value of a residential property.

The decision of the Valley County Board of Equalization is reversed.

FINDINGS OF FACT

The assessed land value is \$904,870, and the improvements' valuation is \$370,830, totaling \$1,275,700. Appellant requests the land value be reduced to \$700,000, and the improvements' value remain \$370,830, for a total of \$1,070,830.

Subject is an improved .374 acres improved parcel with "88 lakefront feet," located in Pilgrim Cove Subdivision, on Payette Lake.

Leister was a witness at a neighbor's (Saldin) hearing. The hearing officer took judicial notice of Appellant's agreement to stand on the record as presented in the Saldin hearing, plus two (2) additional items. These additional items will be added at the end of the findings of facts.

The subject property is adjacent and very similar to the Saldin property in Appeal No. 07-

A-2708. Appellant's Exhibit No. 1 (Appraisal), pages 15 and 16, demonstrate the proximity of subject's and Saldins' lots. The two lots have the same depth of common area between the lots and the lake. Both lot owners enjoy the same use of the beach and dock. Therefore the following information is from the Saldin (07-A-2708) decision's findings of fact. A few changes have been made, mainly the discount percent is different for each lot.

The Assessor described the property as lakefront property but Appellant explained a common area separated subject from Payette Lake. The Assessor portrayed the lake as a pristine natural lake with limited lakefront properties. Subject has a panoramic view of the mountains and lake.

Appellant is an appraiser who enlisted her partner to provide an appraisal (Appraisal) for this appeal. The plat map on page 13 of the Appraisal showed subject with a set back of approximately 123 feet from the Payette Lake shoreline.

Appellant highlighted the three (3) major questions for determining whether a parcel is lakefront property:

- Does property extend to the high water mark, do property owners own the beach?
- What is the proximity to the beach and dock area if not privately owned?
- What is the quality of the view?

A "major draw back" to subject lot, according to Appellant, was the setback from the lake. This setback is steep, brushy, and Appellant has no control over the land between subject and the water's edge (common area). The edge of the common area drops off about five to ten feet to the water. A photograph on page 7 of the Appraisal demonstrated the brushy condition. The path in the photograph through the brush, if followed for about a block, leads to the common beach and boat dock.

Appellant considered subject to be a second-tier lot because it is not on the water.

Appellant described the view from subject as “very good” but the lot as “extremely steep.” Appellant’s lot contains the road easement used for ingress and egress to Saldins’ lot. This road was described by Appellant as extremely steep, too steep to be snow plowed during the winter. Winter parking was at the top of the property at the street level with extended foot access to the residence. Appellant furnished a copy of an email from a McCall real estate broker. The email explained the broker typically discounted a residence between 15% and 20% for extended access, more than 20 feet, between garage and residence. The discount depended on the “steepness and the disconnect between the two.”

The Appraisal included five (5) comparable sales.¹ One of the sales was approximately 10 feet from the lake. This and one other sale had unimpeded views of the lake whereas the other sales had partial views of the lake. Adjustments to the comparable sales were made for location, site overview, the neighboring church camp influence, topography, and winter access. After adjustments, the indicated value of subject was between \$650,000, and \$675,000. The Appraisal estimated the market value of subject on January 1, 2007, at \$650,000.

According to the Assessor, subject’s assessed value was based on market sales prior to January 1, 2007. Models were developed from sales data of lakefront properties. Property values have dramatically changed in recent years. The amount of change was applied to all similar properties as uniformly as possible.

The Assessor’s method of appraising property like subject was based on an established base rate for a typical or standard waterfront lot. Adjustments were then applied to the base

¹One of the sales took place, after the statutory lien date of January 1, 2007 (see Idaho Code § 63-205) and will not be considered in this decision.

rate for larger or smaller lots and other variances. Exhibit A included a list of sales considered to establish the base rate. The County's Pro Val program assisted in the calculations of the adjustments to establish subject's value: The adjustments for Appellant's property were as follows:

- A -10 % was applied to the land because the lot was non-standard.
- A -20% was applied to the lot for non-direct access to the water (common area between subject and lake). Appellant contended this was not a large enough discount for property located approximately 125 feet from the waterfront, had no private dock, no beach, and is steep.
- A -20% was applied to the lot for topography.
- A -5% for access for the easement traversing subject to the neighboring lot belonging to Saldin.

The Assessor testified the adjustments were an attempt to apply equity and uniformity to property values. Similar discount percentages were applied to other properties with a common area beach between the lot and the water.

Appellant believed the Assessor's error was a product of the "statistical analysis" used in the computation of subject's assessed value. This error was continually exacerbated and Appellant did not believe subject was worth the current assessed value.

The first additional item Appellant introduced: subject was next to a church camp on the east side of the property. The church camp has regular camping with an allowable 160 to 180 campers, RV camping and the area was sometimes used as a parking lot. This was noted as a negative influence when Appellant tried to sell subject in 2004. Appellant furnished copies of emails where Realtors opined the effects of the nearness of the church camp.

The second additional item: subject has a large access easement across subject for the Saldins' use. The easement was approximately 14 feet wide and was on about 17% of subject property. The comparable sales, furnished in the appraisal, were discounted \$75,000 for the lack of a similar "adverse easement."

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

All property in Idaho is taxable unless specifically exempted by statute. *See Idaho Code § 63-601*. Subject does not qualify for any of the enumerated exemptions, therefore, it is subject to assessment and taxation at market value.

The market value standard is defined by Idaho Code § 63-201(10):

"Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing sell, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Appellant's Appraisal furnished information on comparable sales of second-tier lots and on lots almost fronting on the beach. The adjusted indicated value for subject land ranged from \$650,000 to \$675,000.

The Assessor furnished a list of sales of waterfront property. Adjustments were made to account for steepness of subject, distance from lakefront, topography, effective depth of the lot, etc. The Assessor's mass appraisal method did not detail the basis for the adjustments

applied to subject. Appellant did not believe the adjustments went far enough.

Idaho Code § 63-511(4) requires a preponderance of the evidence to sustain the burden of proof: In any appeal taken to the board of tax appeals the burden of proof shall fall upon the party seeking affirmative relief to establish that the valuation from which the appeal is taken is erroneous. A preponderance of the evidence shall suffice to sustain the burden of proof.

This Board is convinced the Appellant has met this burden of proof. Therefore, the Board reverses the decision of the Valley County Board of Equalization.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Valley County Board of Equalization concerning the subject parcel be, and the same hereby is, reversed. The land value will be \$700,000 and the improvements' value remain \$370,830, totaling \$1,070,830.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED April 30, 2008